



Victorian
**Small Business
Commission**

Annual
Report
2020

Engagement
Advocacy
Monitoring
Dispute
resolution





Victorian Small Business Commission
October 2020
Annual Report 2020

—

Ordered to be published

—

Victorian Government Printer
PP 159, Session 2018–2020
This report is available at
www.vsbcc.vic.gov.au

© State of Victoria 2020. This publication
is copyright. No part may be reproduced
by any process except in accordance with
the provisions of the *Copyright Act 1968*.

Authorised by the
Victorian Small Business Commission
Level 2, 121 Exhibition Street
Melbourne Victoria 3000

Telephone: 13 8722
Fax: 03 9651 9943
Email: enquiries@vsbc.vic.gov.au
Website: www.vsbcc.vic.gov.au

ISSN: 1832-2018



The Hon Jaala Pulford MP
Minister for Small Business
Level 16, 121 Exhibition Street
MELBOURNE VIC 3000

Dear Minister

Annual Report 2020

I am pleased to present to you the Annual Report 2020 on the operations of the Victorian Small Business Commission, covering the period 1 July 2019 to 30 June 2020.

The report is provided to you under section 16(2) of the *Small Business Commission Act 2017* (the Act), in order for you to cause the report to be laid before each House of Parliament as required under section 16(3) of the Act.

Yours sincerely

Judy O'Connell

Victorian Small Business Commissioner

Contents

- 01** **Commissioner's message—p2**
Year at a glance—p4
Our role—p5
- 02** **Responding to coronavirus
(COVID-19)—p6**
- 03** **Engaging Victoria's small
business community—p10**
- 04** **Advocating and monitoring—p14**
- 05** **Resolving small business disputes—p22**
- 06** **Responding to the Minister's
Statement of Expectations—p30**
- 07** **Appendices**
A—Compliance and accountability—p32
B—Operations—p34

01



Commissioner's message

Judy O'Connell
Victorian Small Business
Commissioner



In 2019–20 we focused our efforts on identifying, understanding and responding to the needs of Victorians in small business, many of whom were facing unprecedented challenges. Small business owners from a range of industries were struggling as a result of the coronavirus (COVID-19) pandemic, including businesses in Victoria's North East, Gippsland, and Alpine regions who were still invested in recovering and rebuilding after the bushfires.

We responded by providing free mediation to small business tenants and landlords who needed help to resolve disputes over rent relief that had emerged because of coronavirus. We provided this support under the Victorian Government's Commercial Tenancy Relief Scheme, which was introduced to help relieve financial hardship during this time. We also helped to resolve small business disputes over matters such as small business supplier invoices not being paid or services that were agreed to but weren't delivered.

With many small business owners focused on seeing their businesses through the pandemic and looking after their family and staff, we recognised that they might not have been prioritising their mental health.

In 2019–20 we developed a small business owner's guide to creating a mental health plan in response to coronavirus, in consultation with Beyond Blue. Our aim was to provide a resource that would help business owners to identify their stressors, recognise changes in themselves that signal they might need extra support and plan practical steps they can take to get back on track.

In addition to these efforts, we continued to provide the support people in small business need to avoid or resolve disputes so that they can concentrate their efforts on running and growing their businesses. The supports we provide include preliminary assistance to try to resolve issues early on and where this isn't possible, mediation with an independent mediator who guides parties in negotiations with the aim of reaching a resolution they can both accept.

In 2019–20 we experienced a record increase in demand for our services, receiving over 13,200 phone and email enquiries and over 2,700 applications seeking our help to resolve disputes. A large proportion of this increase came in the last three months of the year from small business tenants and landlords seeking our help to negotiate rent relief fairly. In adapting to the changing environment, our mediation sessions moved from largely in-person to exclusively video and teleconference, with our success rates remaining strong.

Our resolution rates also remained high, with our team resolving an impressive 38 per cent of matters that would have otherwise progressed to mediation. For matters that did reach mediation, 82 per cent were settled successfully. These figures reflect the specialised skills, commitment and dedication of the Victorian Small Business Commission (VSBC) staff and our panels of experienced, independent mediators from across metropolitan and regional Victoria.

As the year progressed, adapting the way we engage with Victoria's small business sector was vital in communicating our supports. We enhanced our delivery of clear and consistent messaging via our social media platforms, our website, VSBC eNews and other stakeholder correspondence. We also moved from delivering in-person presentations and events to

reaching our audiences through regular webinars and other online engagements. These changes were critical in ensuring we kept providing up-to-date information to small businesses and their intermediaries on rights and responsibilities and ways we can help.

We also sought to determine the needs and best ways to communicate with culturally and linguistically diverse business owners in Victoria. We achieved this by hosting a roundtable for multicultural business and community leaders in partnership with WorkSafe Victoria. This helped to inform the translated materials we developed later in the year and to determine the channels we needed to use to promote these to our audiences.

In 2018–19 the VSBC launched Victoria's Small Business Friendly Council initiative, which has since seen us work more closely with regional and metropolitan councils to support local businesses to thrive. Engaging with local councils has enabled us to grow our understanding of the specific issues experienced by local business owners, work together on ways to address these issues and raise awareness among local business communities about our role and supports.

By the end of 2019–20, forty councils had signed up, pledging to help their local businesses by streamlining approval processes, making faster payments to small business owners, supporting local business networks, helping traders to better manage the impact of infrastructure projects and more. I couldn't be more pleased with how the initiative has progressed and I encourage councils that haven't yet signed up to commit to working with us in creating a fairer operating environment for their local businesses.

I would like to thank VSBC staff and our mediators for their resilience, adaptability, responsiveness and commitment to meet the increased need for our services in a challenging work environment. I would also like to acknowledge the ongoing assistance provided by the Department of Jobs, Precincts and Regions.

Year at a glance

—
13,206
phone and email enquiries

38%

of matters resolved
before reaching
mediation

90%

client satisfaction
rate for our mediation
services

4,421

people reached
through our events
and presentations

82%

success rate for
completed mediations

2,790

applications received

234,257

visits to our website

Our role

Our purpose and functions

The VSBC came into effect on 1 July 2017, with the commencement of the *Small Business Commission Act 2017* (the Act). The Act repealed and re-enacted, with amendments, the *Small Business Commissioner Act 2003*, which our office had operated under since its commencement in 2003.

The Act establishes the VSBC with the purpose of enhancing a competitive and fair operating environment for small business in Victoria. We have a range of functions under the Act, including dispute prevention and dispute resolution. We also have statutory dispute resolution functions under the *Retail Leases Act 2003*, the *Owner Drivers and Forestry Contractors Act 2005*, the *Farm Debt Mediation Act 2011* and the *Commercial Passenger Vehicle Industry Act 2017*.

During the year, the VSBC also took on an additional dispute resolution function under the *COVID-19 Omnibus (Emergency Measures) Act 2020*, which enacted the Victorian Government's Commercial Tenancy Relief Scheme to alleviate financial hardship faced by commercial tenants and landlords as a result of coronavirus (COVID-19).

Our three-year strategic plan

Our three-year strategic plan for 2017–20 focuses our efforts on four priority areas:

Engagement

Connecting with the small business community to promote the VSBC's services and encourage informed decision making

Advocacy

Advocating on issues affecting small businesses and their operating environment

Monitoring

Monitoring the impact of market trends, legislation and government policies on small business

Dispute resolution

Providing an efficient and low-cost small business dispute resolution service

02

Responding to coronavirus [COVID-19]

In response to Victorian Government restrictions to slow the spread of coronavirus (COVID-19) we made significant changes to our normal operations to provide people in small business with:

- ongoing access to our dispute resolution services
- practical resources to meet emerging needs, including translated leasing advice and a guide to support mental wellbeing
- enhanced communications on ways we can help.

Changing our mediation arrangements

When restrictions were first introduced, we assessed our traditional methods of providing mediation services and made changes.

From 25 March 2020 all VSBC mediations moved from in-person sessions to videoconferencing or teleconferencing. VSBC staff and mediators worked together to ensure small businesses could continue accessing mediations, information about options and guidance in taking part.

Before the pandemic, where we were providing most mediation sessions at our Melbourne offices, we were limited to three to four mediations at any one time. The shift to delivering this service via videoconference or teleconference meant we were not faced with this limitation, significantly increasing our capacity to offer support and meet increased demand.

_____ **We would like to take this opportunity to thank you for your professionalism, knowledge and tireless work and support you provide to us during this very difficult and stressful time.**

We hope we can move on and business and trade for all returns to as normal as possible as soon as possible.

We will always remember how amazing your work on this was.

Preliminary assistance feedback

_____ I appreciate the time and effort you made in listening to both parties, and the agent, with regards to our concerns.

I'm sure it's not an easy job listening and trying to understand/ liaise with all parties during this pandemic.

So I thank you for your time on our matter.

Preliminary assistance feedback

Assisting landlords and tenants with rent relief negotiations

In addition to our ongoing work in responding to requests for help in resolving disputes, we experienced an immediate increase in enquiries and applications from small business tenants and landlords needing assistance in negotiating fairly on rent relief. In these situations, the small business owner's turnover had reduced significantly as a result of the pandemic and they were having difficulty paying rent.

The VSBC encouraged small business tenants in this position to keep paying what they could afford, work out their financial situation (i.e. reduction in turnover) and talk to their landlord to try to reach an agreement on rent relief. Where an agreement couldn't be reached, tenants and landlords were encouraged to apply to the VSBC for help to resolve the dispute through mediation at no cost.

Our role in providing these services to affected landlords and tenants was formalised with the introduction of the Victorian Government's Commercial Tenancy Relief Scheme (the Scheme). The purpose of the Scheme is to relieve financial hardship faced by commercial tenants and landlords as a result of coronavirus. Its introduction followed the passage of the *COVID-19 Omnibus (Emergency Measures) Act 2020* and subsequent making of regulations under the Act.

From 23 March 2020 through to 30 June 2020 we received over 5,600 phone and email enquiries on coronavirus-related matters and 877 applications for dispute resolution support under the Scheme.

To ensure we could respond to the increasing number of dispute applications promptly and efficiently, we recruited additional staff to support our dispute resolution function, which includes providing information and advice early on and arranging mediation sessions.

Our staff, working closely together with our independent mediators, established an end-to-end process for dealing with matters under the Scheme to ensure that the obligations of parties were met and disputes could be progressed in a timely manner.

To further help in meeting increased demand, we outsourced preliminary support in resolving disputes – work normally carried out by VSBC dispute resolution officers – to our panels of independent mediators. This meant that our mediators were assisting early on where possible in addition to conducting mediations, helping the VSBC to resolve more disputes.

Responding to coronavirus [COVID-19]

continued



Communicating to our stakeholders

To promote our services under the Scheme and assist VSBC stakeholders in accessing available supports with ease, we planned and implemented a comprehensive marketing and communications campaign. Strategies included:

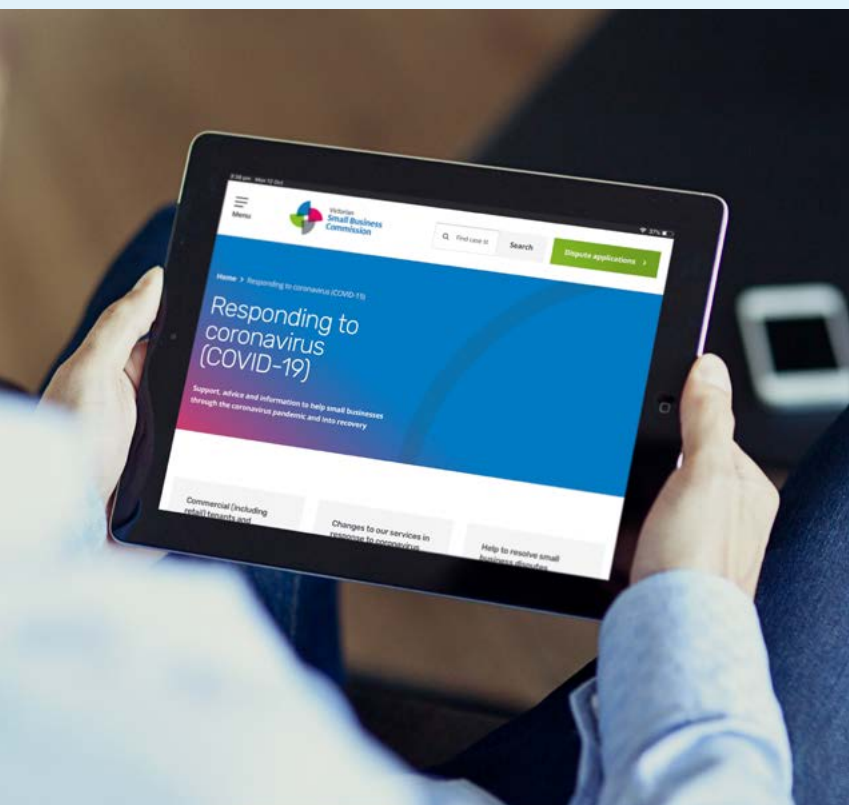
- updating our website with a prominent homepage banner linking to a hub of information on topics including:
 - > changes to our services in response to coronavirus
 - > how we can help commercial tenants and landlords resolve rent disputes under the Scheme, including a step by step process, a new application form tailored for these disputes, responses to frequently asked questions and a letter template tenants can use to request rent relief
 - > the broad range of small business disputes that we can assist with at this time
 - > support in looking after your mental health and wellbeing during the pandemic and into recovery
- directly engaging landlords, tenants and other small business owners through delivering presentations and participating in webinars, roundtables and meetings
- developing a fact sheet with information about our role under the Scheme, leasing advice and rent relief scenarios at the request of industry associations for communicating to their stakeholders
- translating our leasing advice and scenarios fact sheet into Arabic, Simplified Chinese and Vietnamese and promoting these resources via multicultural business and community leaders
- undertaking marketing activities to promote our role under the Scheme, including the targeted boosting of Facebook posts and online advertising through Google Ads.

Supporting the mental health of business owners

Recognising the increasing pressures on small business owners during this difficult time, we developed a small business owner's guide to creating a mental health plan specifically in response to coronavirus. We consulted with stakeholders including Beyond Blue, local council economic development teams and small business owners with lived experience of overcoming mental health challenges. The result was a user-friendly guide that helps business owners to:

- identify stressors that might come up at this time
- recognise changes in themselves that signal they might need extra support
- identify a trusted network of support people and resources to turn to if needed, such as their doctor, a business mentor, the Business Victoria website or their local business network
- plan practical actions they are willing and able to take, such as getting accurate information about available support to resolve a dispute over rent relief
- think about steps they might take if they need to take time out from running their business and then return to work
- support the mental wellbeing of their staff.

The guide comes with an easy to use template for small business owners to build their own tailored plan and an example plan to use as a guide point. We were pleased to hear our new resource was very well received by our stakeholders including local councils.



Our hub of information in response to coronavirus, including how we can help commercial tenants and landlords to resolve disputes over rent

Our fact sheet with leasing advice, rent relief scenarios and information about how we can help support fair tenancy negotiations

Responding to COVID-19: leasing advice

We're here for small business

LEASING ADVICE

To ease financial hardship faced by some tenants and landlords as a result of the coronavirus (COVID-19) pandemic, the Victorian Government has introduced the [Commercial Tenancy Relief Scheme](#) (the Scheme).

The [Regulations](#) for the Scheme have been made under the [COVID-19 Omnibus \(Emergency Measures\) Act 2020](#).

Under the Scheme, the Victorian Small Business Commission (VSBC) is providing commercial tenants and landlords with access to free mediation to support fair tenancy negotiations.

What steps can tenants and landlords take to resolve tenancy matters?

If a commercial tenant is having trouble paying rent as a result of the coronavirus (COVID-19) pandemic, the VSBC recommends:

- tenants keep paying what they can afford
- tenants work out their financial situation (i.e. their reduction in turnover) and
- both tenants and landlords talk to each other to try and reach an agreement on rent relief.

It is important for tenants and landlords to communicate with each other about their situation early on and if they require further information, they can [contact the VSBC](#).

If they cannot reach an agreement or get a response from the other party, the tenant or landlord can [apply for free mediation with the VSBC](#) for help to resolve their rent dispute.

Visit the VSBC's website to:

- learn more about the [steps for tenants and landlords under the Scheme](#)
- download a [letter template to use when requesting rent relief](#)
- see [responses to frequently asked questions](#)

SCENARIOS

Scenario 1: A restaurant in Melbourne's CBD

Impact

Due to restrictions in place to slow the spread of coronavirus (COVID-19) and surrounding businesses closing, the business owner has experienced a 40 per cent downturn in trade.

Access to JobKeeper

The business owner (the tenant) is [eligible for](#) and is accessing JobKeeper payments.

Access to rent relief

The tenant [writes to the landlord](#) providing evidence they are a small or medium sized enterprise (SME) who is participating in JobKeeper and is therefore eligible for the [Commercial Tenancy Relief Scheme](#) (the Scheme).

The tenant requests a reduction in rent (currently \$4,000 per month) to the landlord

© Victorian Small Business Commission. Published June 2020. 1

03

Engaging Victoria's small business community

In 2019–20 we continued to strengthen our engagement with Victorians in small business, their intermediaries and other key stakeholders. Doing so has enabled us to build awareness of:

- ways we can help
- small businesses rights and responsibilities under the Acts where we have a dispute resolution role
- good business practices to promote informed decision making and in turn minimise disputes.

We saw significant increases in the VSBC's social media engagement, media coverage and applications for support in resolving disputes, demonstrating the effectiveness of our approach.

Our key achievements

Our key achievements include:

- **implementing a comprehensive communications and marketing campaign** to raise awareness of the VSBC's information and resources for commercial tenants and landlords to negotiate rent relief in response to coronavirus (COVID-19) and access free mediation where they need help with those negotiations
- **enhancing our delivery of clear and consistent communications on ways we can help** via our social media platforms, our website, VSBC eNews and other stakeholder correspondence
- **investing our energies in targeted, proactive and responsive media work**, contributing to a 172 per cent increase in VSBC media mentions
- **furthering the implementation of our culturally and linguistically diverse communications and engagement strategy** by co-hosting a multicultural roundtable and developing new translated materials to meet identified needs
- **reinforcing the Commissioner's thought leadership role by publishing blogs** exploring topics such as how to prepare for mediation and what it means to negotiate in good faith
- **working collaboratively** with a range of peak bodies, industry associations and trusted small business advisors to create shared content and deliver events in partnership
- **consistently engaging with our 1,999 news subscribers** through VSBC eNews
- **raising awareness of our mediation service and new arbitration function** among owner drivers, following changes to the *Owner Drivers and Forestry Contractors Act 2005*.

Our website

In 2019–20 VSBC website visits increased by 84 per cent on last financial year, with 234,257 people visiting our site.

A key factor that contributed to this rise in activity is the effort we invested in 2018–19 to redevelop our website – our primary tool for communicating with the small business sector. The easier-to-use website now offers even more accessible information and resources tailored for people in small business and proved critical in communicating important information to commercial tenants and landlords about negotiating rent relief during the pandemic.

We also worked with the digital experts who redeveloped our website to implement valued enhancements to further support small business owners in finding the information they need. As a result, the content is now even easier to navigate and our homepage better reflects the breadth of information we provide.

Working with the media

In 2019–20 we achieved 240 media mentions, which is a significant increase on the 88 mentions for the previous financial year.

Highlights include:

- **9News Central Victoria** covering the City of Greater Bendigo signing up to our Small Business Friendly Council initiative
- **Inside Small Business** reporting on the number of small businesses seeking our help to resolve their disputes
- **Indo Times** publishing a feature on our joint roundtable for engaging culturally and linguistically diverse business and community leaders
- **The Age** publishing a filmed interview with the Commissioner on proactive steps small business owners can take to see their businesses through to the other side of the pandemic
- **ABC News** promoting the Victorian Government’s announced supports for commercial landlords and tenants under the Commercial Tenancy Relief Scheme, including access to free mediation through the VSBC
- **Prime Mover Magazine** reporting on our mediation service and new arbitration function for all owner drivers in Victoria
- **Yea Chronicle** highlighting our new small business owner’s guide to creating a mental health plan in response to coronavirus.

Engaging via social media

By 30 June 2020 we had reached a following of 3,047 across our social media sites, which is a 108 per cent increase on our following as at 30 June 2019.

We generated a reach of 190,397 and 616 engagements through boosting our Facebook post promoting the steps tenants and landlords can take under Victoria’s Commercial Tenancy Relief Scheme, including accessing free mediation with the VSBC.



Engaging Victoria's small business community

continued



Culturally and linguistically diverse business and community leaders taking part in our multicultural roundtable

Engaging multicultural businesses

We continued implementing our strategy, started in the previous year, to increase our engagement with culturally and linguistically diverse communities. Our goal in undertaking this work is to grow our understanding of community needs so we can develop translated materials in response.

In February 2020 we hosted a roundtable in partnership with WorkSafe Victoria to engage with diverse business and community leaders about small business barriers and available supports.

More than 40 people took part in robust roundtable discussions including Vietnamese, Indian, Afghan, Turkish, Spanish, Chinese and Arabic-speaking business and community leaders, as well as representatives from the Victorian Multicultural Commission and Federation of Ethnic Communities' Councils of Australia.

The event enabled us to learn more about ways to best meet community needs and promote the small business supports the VSBC provides.

We also furthered our engagement with key stakeholders to raise awareness of our services and promote our translated materials among small business owners of diverse backgrounds. This included meetings and ongoing discussions with the Victorian Multicultural Commission, AMES Australia and the African Australian Multicultural and Youth Services.

Translated information

We developed a new suite of translated resources on how we can help small businesses and on retail leases in Arabic, Vietnamese, Simplified Chinese, Turkish, Spanish and Dari. Our helpful animation on the supports we provide was also made available with voiceover and subtitles in Mandarin and Simplified Chinese, Vietnamese and Arabic.

Later in the year we developed digital fact sheets in Arabic, Vietnamese and Simplified Chinese in response to the pandemic. These new resources included:

- VSBC leasing advice
- scenarios showing rent relief negotiations under the Commercial Tenancy Relief Scheme
- information on how to access the VSBC's free mediation service to resolve disputes over rent relief.

The decisions we made when undertaking this work were informed by trusted data on the needs of Victorians in small business and feedback gained through stakeholder consultation. Our new suite is a significant improvement on our previous translated resources and will go a long way in increasing our accessibility.

Visiting regional areas of Victoria

In 2019–20 the Commissioner maintained a regular program of visits to a range of regional and rural areas in Victoria to hear first hand about the issues small businesses are encountering and how we can assist, and to provide practical guidance in ways to avoid and resolve disputes. The Commissioner also engaged with local councils, rural financial counsellors, business networks and local, state and federal authorities about local issues affecting small businesses.

With travel restrictions introduced later in the year, we promptly adapted our approach to engagement to continue these valued interactions through online meetings and webinars.

Engaging with our stakeholders

In 2019–20 we continued to proactively strengthen relationships with our key stakeholders. This included coordinating over 140 stakeholder meetings where we met with a range of business networks, local councils, chambers of commerce and industry associations including:

- Council of Small Business Organisations Australia
- Law Institute of Victoria
- Property Council of Australia
- CPA Australia
- WorkSafe Victoria
- Real Estate Institute of Victoria
- Shopping Centre Council of Australia
- Pharmacy Guild of Australia – Victoria branch
- Victorian Transport Association
- Australian Retailers Association
- Victorian Automobile Chamber of Commerce
- Victorian Chamber of Commerce and Industry
- Master Grocers Association
- Beyond Blue
- Municipal Association of Victoria
- Franchise Council of Australia.

The Commissioner also attended regular meetings with the:

- Small Business Ministerial Council
- Multicultural Business Ministerial Council
- national small business commissioners
- WorkSafe Victoria Occupational Health and Safety Committee.

In 2019–20 VSBC staff delivered 75 presentations on the support we offer and more recently on supporting landlords and tenants in negotiating rent relief. Fifty-five of these presentations were delivered by the Commissioner across a range of industries in metropolitan and rural and regional Victoria.

Advocating and monitoring

Identifying and addressing issues affecting small businesses continued to be the focus of the VSBC's advocacy and monitoring functions in 2019–20. By closely monitoring the impact of market trends, legislation and government policies on small businesses, we are in a much stronger position to advocate on their behalf.

In 2019–20 our major advocacy projects included building on our efforts to address the disruption to small business caused by infrastructure works, rolling out our Small Business Friendly Council initiative and further supporting the mental health and wellbeing of people in small business.

Promoting guidelines for small business disruption

During the year, coping with the disruption caused by infrastructure works continued to place a significant strain on many small business owners and operators. Major infrastructure works were being carried out across Victoria including the building of major roads, the removal of level crossings and the expansion of public transport infrastructure to support our growing state.

We continued to encourage the use of our *Victorian small business engagement guidelines* for agencies undertaking potentially disruptive infrastructure projects. The guidelines outline best practice behaviours for project managers in working with small businesses to develop strategies to mitigate the negative impacts that construction works can have on trade.

We also continued to promote our complementary *Guide to managing disruption* for business to support small business owners in planning ways to manage the impacts of these projects.

In response to requests, we provided dispute resolution, mediation and facilitation services to help address disruption caused by infrastructure projects. We also continued to advocate for the rights of small businesses when talking to authorities who undertake major works such as the Level Crossing Removal Project and Major Road Projects Victoria (MRPV).

We strengthened our relationships with key stakeholders to address small business impacts arising from infrastructure projects. A key example of this was working with MRPV on the development of their Trader Engagement Strategy, which we have since endorsed.

It was encouraging to see other agencies and local councils adopt the principles from our guidelines in their engagement with traders across Victoria.

Applying the small business engagement guidelines

South Gippsland Shire Council developed a reference group for a local main street upgrade called the Bair Street Project – a major capital works project set to revitalise the main street of Leongatha, South Gippsland’s largest town.

Expected to take up to two years to complete, the redevelopment involves footpath improvement, the relocation of overhead powerlines underground, the replacement of water mains, new energy efficient street lighting, new bins, seats, bike racks and landscaping.

Guided by the VSBC’s *Victorian small business engagement guidelines*, the Bair Street Reference Group was created to ensure clear and transparent communication between the council and affected small businesses throughout each stage of the project. The group meets with council representatives to provide feedback on the works and discuss ways to work together to minimise impacts. These meetings are also an opportunity for the council to provide a thorough project update and to answer any questions from the local business community.

In addition to the reference group, a contact database was established to ensure clear communication to all businesses in Bair Street. The contacts in the database are emailed a weekly newsletter that provides updates on how the project is progressing and expected works that may have an impact on business operations. By implementing our guidelines, the council aims to minimise the impact on businesses throughout the life of the project.



Download your copies of the *Victorian small business engagement guidelines* and *Guide to managing disruption* at www.vsbic.vic.gov.au

Advocating and monitoring

continued

Small Business Friendly Council initiative

The Small Business Friendly Council initiative was formally launched in May 2019. The initiative is a commitment between the VSBC and local councils to work together to support small businesses to get started and to grow.

Councils that sign up to the initiative are committing to partner with us to:

- help small businesses in managing disruptions to trade caused by infrastructure projects
- support the growth of existing and creation of new local business networks
- work towards faster permit approvals for people looking to start a small business in the area
- promote prompt payment of small business supplier invoices
- develop clear and accessible information for people in small business
- open and maintain lines of communication between councils and the VSBC.



As at 30 June 2020, forty councils had signed up to the initiative:

- 1 City of Yarra
 - 2 Glen Eira City Council
 - 3 Northern Grampians Shire Council
 - 4 Corangamite Shire
 - 5 Baw Baw Shire Council
 - 6 Latrobe City Council
 - 7 City of Wodonga
 - 8 Gannawarra Shire Council
 - 9 Mount Alexander Shire Council
 - 10 City of Kingston
 - 11 Yarra Ranges Council
 - 12 Wyndham City
 - 13 City of Casey
 - 14 Frankston City Council
 - 15 South Gippsland Shire
 - 16 Moreland City Council
 - 17 Hepburn Shire Council
 - 18 Ararat Rural City Council
 - 19 City of Greater Bendigo
 - 20 Greater Shepparton City Council
 - 21 Cardinia Shire Council
 - 22 Moonee Valley City Council
 - 23 Mornington Peninsula Shire
 - 24 Swan Hill Rural City Council
 - 25 City of Greater Dandenong
 - 26 Pyrenees Shire Council
 - 27 City of Whittlesea
 - 28 Buloke Shire Council
 - 29 Bass Coast Shire Council
 - 30 Hume City Council
 - 31 Melton City Council
 - 32 Manningham City Council
 - 33 City of Greater Geelong
 - 34 Colac Otway Shire
 - 35 Nillumbik Shire Council
 - 36 Loddon Shire Council
 - 37 Mitchell Shire Council
 - 38 Maribyrnong City Council
 - 39 City of Melbourne
 - 40 Knox City Council
-

Working with small businesses disrupted by infrastructure projects

As part of the initiative the VSBC and local councils make a commitment to support small businesses to manage the impacts of disruptive infrastructure projects. The purpose of this commitment is to work together to facilitate better treatment of small businesses throughout the life of a project and minimise the negative impacts that projects can have.

We provided all councils with the *Victorian small business engagement guidelines* and *Guide to managing disruption* for small businesses. We developed these resources with the intent of supporting businesses in managing the impacts of disruption. Our discussions with councils that have adopted the guidelines and used them in their projects revealed that their engagement with their local business community was markedly better as a result.

It's been great to see councils playing a central role in encouraging project managers to take into account the needs of small businesses.

Judy O'Connell, Victorian Small Business Commissioner

VSBC workshop on supporting businesses through disruptive projects



Workshop on supporting businesses through disruptive projects

In October 2019 the VSBC delivered a workshop for economic development teams at local councils in Victoria on managing disruption. The workshop featured presentations from City of Wodonga, City of Melbourne, Yarra City Council, Powercor and Rail Projects Victoria.

City of Wodonga's Adam Wiseman spoke about how the council supported local businesses throughout the life of the major High Street redevelopment. He talked about how the council maintained open communication and consultation with the local shop owners, enabling them to hear and genuinely respond to their concerns with practical measures that worked.

The Commissioner facilitated a discussion between City of Melbourne's Richard Greig and Jacqui Susan and Rail Projects Victoria's Barry McGuren on how councils and project managers can work together. They shared insights from their collaboration on the current CBD rail upgrades. Barry spoke about learning to be "more robust about what you want to do and what you can't do" from the outset and Jacqui reflected on the non-negotiables – the need to have empathy and be able to build rapport and trust.

Powercor's Kellie Wilson talked about her team's project to improve the safety of powerlines in high risk bushfire areas. Instead of a 'one size fits all' approach, they tailored the power outages and engagements to best suit the needs of each community and the local businesses that were going to be affected.

Yarra City Council's Joy Saunders shared her experiences of working with local businesses during the Nicholson Street tram stop works and redevelopment. The council's waiving of footpath trading fees for 12 months made a big difference, savings traders in the precinct considerable costs. Other measures that proved effective were monthly trader reference group meetings, regular e-bulletins, letterbox drops and face-to-face meetings with small business owners.

Feedback from councils was positive and demonstrated the value of knowledge sharing opportunities and working together to support small business.

Advocating and monitoring

continued



Working with local trader networks

Together with participating local councils, we committed to support local trader associations and small business networks. In 2019–20 our activities included:

- distributing our guide to building stronger networks among councils and promoting the value of the guide in stakeholder presentations
- presenting at the Mainstreet Australia AGM
- working with small business networks throughout the Victorian bushfires and the coronavirus (COVID-19) pandemic.

In addition, councils indicated that during the pandemic, trader associations were an important and trusted conduit for distributing information, such as VSBC guidance and advice on the Commercial Tenancy Relief Scheme.

Faster permit approval processes for small businesses

The majority of councils that signed up to the initiative had completed the Better Approvals Project. Managed by Small Business Victoria, the project aims to make it quicker and easier to open a small business by improving local council regulatory approval processes.

These councils shared with us their commitment to their work in this area and the positive impact the project has had on service delivery for businesses in their region.

Prompt payments

The Small Business Friendly Council Charter asked participating councils to pay all small business supplier invoices within 30 days, in keeping with the Australian Supplier Payment Code. In response to coronavirus, a significant number of councils had furthered their commitment by moving to a policy where small businesses were paid within 14 days.

Working together to support small businesses

As part of each Charter we signed, we committed to providing clear and accessible information to Victorians in small business and maintaining open lines of communication with local councils.

We made these commitments to ensure that the VSBC and local councils had strong relationships that would assist the councils in working together to support small business. Throughout the 2019–20 financial year, the landscape for small businesses changed dramatically due to the unprecedented impacts of coronavirus. Throughout this time, the lines of communication established with local councils through the initiative were invaluable, allowing us to distribute targeted information to local small business communities in a timely manner on ways we can help.

The key information was about our Commercial Tenancy Relief Scheme services and the VSBC's new small business owner's guide to creating a mental health plan. We communicated this information via email and a roundtable attended by council representatives (see below).

Councils also worked with us to share our resources and information through their newsletters, which have a strong readership among their local business communities, and through hosting presentations delivered by the Commissioner.

Working together to support small business

– council roundtable

In May 2020 we hosted a virtual roundtable with councils to discuss the Commercial Tenancy Relief Scheme (the Scheme) and let them know about our new mental health resource for Victorian small business owners.

The roundtable was open to all councils and attended by over 45 economic development team members, all of whom were encouraged to contribute and ask questions. Following the event, councils were better equipped to explain the Scheme to their local business owners and landlords.

As the impacts of coronavirus continue, we start the new financial year with a commitment to continue to provide guidance and advice to local small business communities with a number of webinars being planned for different trader associations across Victoria.

Supporting the mental health and wellbeing of people in small business

Promoting the importance of a mentally healthy workplace for small businesses and strategies to support the mental wellbeing of small business owners remained a key VSBC priority in 2019–20.

We consulted with a range of stakeholders about our Mental Health Strategic Plan – from local councils to small business owners with lived experience of overcoming mental health challenges. We drew on their feedback to inform our new small business owner’s guide to creating a mental health plan in response to coronavirus, which we developed in consultation with stakeholders including Beyond Blue. We also continued to promote other helpful resources including the Australian Small Business and Family Enterprise Ombudsman’s My Business Health website, which offers information to help small businesses find what they need to deal with challenges and manage stress.



A small business owner’s guide to creating a mental health plan in response to coronavirus (COVID-19)

Advocating and monitoring

continued



National commissioners' meetings

The Commissioner continued to meet bi-monthly with state small business commissioners and the Australian Small Business and Family Enterprise Ombudsman. These meetings are a unique opportunity to discuss national issues that are a priority and share information on their activities, initiatives and learnings. While usually in-person, these meetings continued virtually during the pandemic and provided a valued forum for discussing the impacts of coronavirus on small business and the government supports that had been made available in response.

Promoting faster payments times for small business

Our advocacy on faster payment times for small business was a high priority during the year. This was particularly important during the pandemic, where many small business suppliers reported issues with being paid on time and the impact this had on the cash flow and viability of their business.

We adopted the Victorian Government's commitment to pay all outstanding supplier invoices within ten business days and encouraged larger businesses to do the same with their small business suppliers.

Monitoring government fair payments

The VSBC has again undertaken a review of compliance with the Victorian Government's Fair Payments Policy and the Australian Supplier Payment Code.

The Fair Payments Policy, introduced in 2004, requires Victorian Government departments and certain agencies to pay invoices of up to \$3 million within 30 days of receiving the invoice, where there are no disputes relating to the goods or services provided. Penalty interest rates can be claimed by businesses for late payment.

The Australian Supplier Payment Code (the Code) was endorsed by the Victorian Government in 2017 with the Government officially becoming a signatory in May 2018. It is an initiative run by the Business Council of Australia. Under the Code, signatories agree to pay small business suppliers within 30 days and work with suppliers to implement new technology and practices to speed up invoicing.

In 2019–20 we wrote to all eight departmental secretaries to request key data on invoice payments from each department, and from the five largest agencies (by expenditure) within each portfolio area.

Contributing to consultations and reviews

Our monitoring function involves reviewing new legislation and policies that may impact on small business. In line with this function, we contributed to several state and national consultations and reviews. Importantly, we also promoted opportunities for small businesses to speak up and have their say on issues affecting them.

Our work included:

- meeting with the Chair of the Inquiry into the Victorian On-Demand Workforce to discuss our earlier submission and disputes we dealt with involving on-demand platforms
- consulting with the Australian Government regarding legislation for the proposed Payment Times Reporting Scheme that would require large businesses with over \$100 million in turnover to publish information on their small business payment policies and practices
- providing feedback to the Franchising Taskforce – which is preparing the Australian Government’s response to the Australian Parliament’s Fairness in Franchising report – through a position paper prepared by the state small business commissioners and Australian Small Business and Family Enterprise Ombudsman.

Respondents reported that 1,501,353 invoices relating to contracts under \$3 million were paid. Figure 1 shows the reported average number of days that were taken to pay an invoice and the proportion of these invoices reported as having been paid within 30 days.

An overall compliance rate of 74 per cent was reported, which is lower than the rate of 86 per cent reported in 2018–19. A significant reason for the lower rate is the inclusion in the reporting of several large agencies that were initially exempt from the Fair Payments Policy. Reasons provided for non-payment within 30 days included disputes over goods or services provided, invoicing errors and late provision of the invoice.

While the percentage of payments made within 30 days decreased, there was a significant reduction in the average time to pay invoices from 24.4 days in 2018–19 to 20.7 days in 2019–20. This reflects the Victorian Government’s commitment to pay all invoices within ten days during the coronavirus pandemic.

We will continue to work with departments and key agencies to encourage reduced payment times for small businesses.

Figure 1—Payment of invoices for contracts less than \$3 million 2019–20

	Invoices (<\$3 million)	Average days taken to pay invoice	Invoices paid after 30 days	Invoices paid within 30 days (%)
Departmental core	462,951	15.9	60,360	87
Agencies	1,038,402	21.4	325,477	69
Total	1,501,353	20.7	385,837	74

05



Resolving small business disputes

The VSBC provides dispute resolution services for a broad range of commercial small business disputes under the *Small Business Commission Act 2017*, as well as disputes under the *Retail Leases Act 2003*, the *Owner Drivers and Forestry Contractors Act 2005*, the *Farm Debt Mediation Act 2011* and the *Commercial Passenger Vehicle Industry Act 2017*.

Our alternative dispute resolution services include preliminary assistance to try to resolve issues early on and where this is not possible, a quick, effective and low-cost mediation service. At mediation, an independent mediator guides parties in negotiations with the aim of reaching a resolution they can both accept.

During the year the VSBC also took on an additional dispute resolution function under the new *COVID-19 Omnibus (Emergency Measures) Act 2020*. Its passing enacted the Victorian Government's Commercial Tenancy Relief Scheme (the Scheme), which was introduced to relieve financial hardship faced by commercial tenants and landlords as a result of coronavirus (COVID-19). Under the Scheme we provide mediation services at no cost to eligible landlords and tenants. Eligibility is based on tenants participating in the Commonwealth Government's JobKeeper scheme.

While our mediation service is the principal method we call on to resolve disputes, we are focused on increasing the number of disputes resolved by our dispute resolution officers early on without needing to progress the matter to mediation. In 2019–20 we endeavoured to make our services more accessible and increase our capacity to help more small business owners in disputes, saving them the delays and costs that come with going to the Victorian Civil and Administrative Tribunal or court.

Developments in alternative dispute resolution

Upgrading our mediation rooms

Our office at 121 Exhibition Street, Melbourne, is our main location for conducting in-person mediation sessions, with three sets of mediation rooms now available. In September 2019 we unveiled our new mediation rooms and made these available to small businesses attending mediation. The refurbished and modernised rooms provide new technology and improved security and privacy to deliver better services for the small businesses we support.

————— **I am really pleased that our new mediation facilities are helping to provide small businesses with the best experience possible when working with us to resolve their disputes.**

Judy O'Connell, Victorian Small Business Commissioner

The VSBC mediator panels

In October 2019 we completed our selection of the new VSBC mediation panels for 2019–21. We selected 26 mediators for the metropolitan panel (including three who were new) and 18 mediators for the regional and rural panel (including five of who were new).

The panels started on 1 December 2019. Our new mediators received additional support through our induction program, which included opportunities to observe mediations in person to build their knowledge and practical skills.

In 2019–20 we continued to engage with our mediators through hosting regular interactive information sessions. These sessions were particularly valuable during the latter part of the year as they allowed us to provide updates and consult on our services under the Commercial Tenancy Relief Scheme.

Our new arbitration function under the *Owner Drivers and Forestry Contractors Act 2005*

Amendments to the *Owner Drivers and Forestry Contractors Act 2005* came into effect on 1 May 2020, giving the VSBC a new function to arbitrate disputes between hirers and contractors. This enables us to provide an alternative to mediation and a further support in situations where mediation has not resulted in a successful outcome.

The VSBC has since implemented the new function. This involved developing arbitration rules, an arbitration agreement and responses to frequently asked questions, following consultation with stakeholders including the Transport Workers Union and Victorian Transport Association.

Arbitrators will be selected from a group of 12 VSBC mediators who have extensive experience in arbitration and expressed a keen interest in arbitrating disputes between hirers and contractors.

VSBC business systems

During the year we engaged a business analyst to investigate our current business systems and processes and prepare a business case for funding a new case management system. The project was an opportunity to explore how a new, integrated system could improve the timeliness and efficiency of dispute handling and improve the quality of our data collection and reporting to support our advocacy function.

We also engaged a developer to design and implement a new online booking system for mediations, with the aim of reducing the time it takes for a mediation date to be set after we receive an application. This work is expected to be completed in late 2020.

_____ **Extremely competent communicator.**
Very good at putting everyone at ease. Very skilled at absorbing complex information.

Mediation feedback

_____ **Our mediator showed great empathy for the situation while still giving firm guidance in legal rights.**

Mediation feedback

Mediator reference groups

Our Mediator Reference Group, consisting of VSBC staff and mediators and chaired by the Commissioner, continued to meet regularly. These meetings provide a forum for openly discussing ways to improve our mediation services and encourage a closer working relationship between our staff and mediators.

We also established a Commercial Tenancy Relief Scheme (the Scheme) Mediator Reference Group in May 2020. Meetings are an opportunity for VSBC mediators who conduct mediations under the Scheme to advise the VSBC on dispute resolution processes and discuss ways to address issues that have arisen.

Our dispute resolution services

We work with parties to resolve disputes at each stage of the process, from providing information and education right through to mediation.

Information and education

The VSBC provides small businesses with the tools they need to avoid disputes. We do this by providing information via our website, undertaking engagement activities and making direct contact with businesses via email and phone.

In 2019–20 our team handled 13,206 phone and email enquiries. The majority of enquiries related to rights and obligations under retail leases during the pandemic, with over 5,600 coronavirus-related enquiries received since 23 March 2020.

Resolving small business disputes

continued

Applications we received

In 2019–20 we received 2,619 dispute applications, which is a 39.2 per cent increase on 2018–19. This increase was largely due to the 877 applications received under the *COVID-19 Omnibus (Emergency Measures) Act 2020* for help in resolving disputes over rent relief.

Applications for disputes under the *Retail Leases Act 2003* fell by 14.8 per cent while those under the *Small Business Commission Act 2017* grew by 1.8 per cent. We saw an 8.8 per cent drop in applications under the

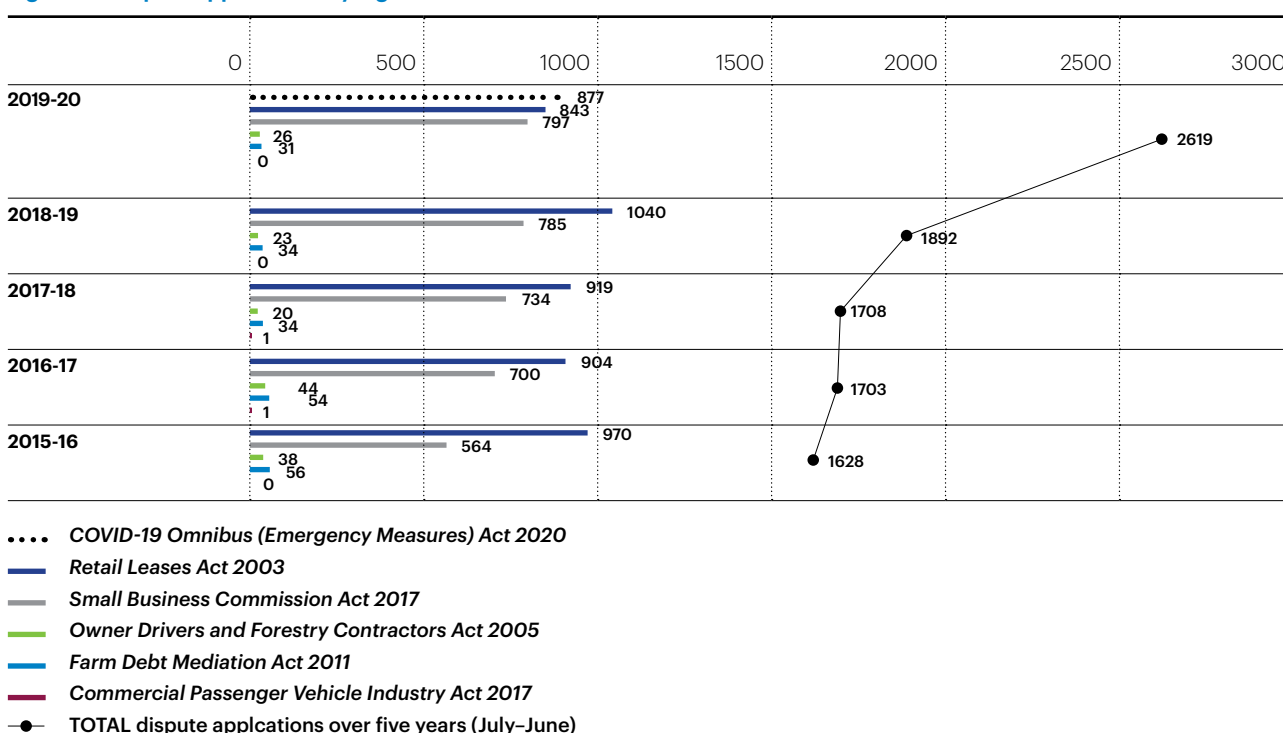
Farm Debt Mediation Act 2011 and a 13 per cent increase in applications for disputes under the *Owner Drivers and Forestry Contractors Act 2005* (see Figure 2). Figure 3 shows the total number of dispute applications over the past five years.

We also received 45 applications to resolve coronavirus-related disputes over rent that were not eligible under the Commercial Tenancy Relief Scheme, for example, where the tenant was not participating in the JobKeeper scheme. We helped to resolve these matters under our general business-to-business and retail leasing dispute resolution functions.

Figure 2—Applications received in 2019–20

	2018–19	2019–20	% + / (-)
<i>COVID-19 Omnibus (Emergency Measures) Act 2020</i>	0	877	N/A
<i>Retail Leases Act 2003</i>	1,040	886	(14.8)
<i>Small Business Commission Act 2017</i>	785	799	1.8
<i>Owner Drivers and Forestry Contractors Act 2005</i>	23	26	13
<i>Farm Debt Mediation Act 2011</i>	34	31	(8.8)
Total disputes	1,882	2,619	39.2
Advocacy matters	27	16	(40.7)
Specialist Retail Valuers	132	121	(8.3)
<i>Farm Debt Mediation Act 2011</i> certificates	33	34	3
Total applications	2,074	2,790	34.5

Figure 3—Dispute applications by legislation from 2015–16 to 2019–20



CAFÉ IN MELBOURNE'S CBD

Amelie's family-owned café business had been severely impacted as a result of coronavirus (COVID-19). Before the pandemic, the café had been flourishing and growing a strong customer base. After restrictions to trade were introduced in response to the pandemic, the café's turnover plummeted to the point where Amelie could no longer pay the full rent and other expenses under her lease.

Amelie's early discussions with her landlord Ryan about rent relief had gone nowhere. Ryan's response to Amelie's request for help was that he was also doing it tough and needed her rent payments to pay the mortgage on the property and meet his other financial obligations. Ryan and Amelie had become desperate. They had stopped communicating with each other and it seemed that the only way forward would be lengthy and stressful court proceedings that neither party could afford.

Amelie took the advice of her local business network and visited the VSBC website, where she learned about the VSBC's alternative dispute resolution service for commercial landlords and tenants under the Victorian Government's Commercial Tenancy Relief Scheme.

That same day, Amelie applied to the VSBC for help.

The VSBC responded by proving help early on. This involved quickly getting in touch with Ryan, re-opening communication between the two parties and facilitating a discussion so they could understand each other's position, concerns and perspectives. Amelie and Ryan were on the path to settling the matter, though could not reach an agreement they could both accept. To provide further help, the VSBC promptly progressed the dispute to mediation at no cost.

At mediation, an independent and experienced mediator guided Amelie and Ryan in exploring creative options for resolving their dispute that they hadn't previously considered. The matter was resolved, with Amelie agreeing to pay an amount of rent she could afford and that was acceptable to Ryan. The agreement reached will enable both Ryan and Amelie to get through the rough times ahead and see their commercial relationship through to the other side of the pandemic.

Please note: names and some details have been omitted or changed to protect the identity of those involved. Photo posed by model.



Resolving small business disputes

continued

Preliminary assistance and early resolution

When we receive an application for help in resolving a dispute, the first step we take is to engage with both parties to see if the matter can be resolved early on without needing mediation. Staff with expertise in provisions of the Acts we administer and alternative dispute resolution can often help in bringing the parties to a pragmatic resolution. If the dispute cannot be resolved in this way, we explain the benefits of mediation to the parties, for example, to avoid the emotional strain, delay, cost and distraction of litigation, and encourage them to take part.

The same process does not apply for disputes under the *Farm Debt Mediation Act 2011* and the *Commercial Passenger Vehicle Industry Act 2017*, where our role is limited to arranging and conducting mediation.

In 2019–20 our team successfully resolved 38 per cent of matters early on, an increase from 33.9 per cent in the previous year.

_____ **Excellent service – very quick initial response given the number of probable disputes at this time, comprehensive and informative website, very fast response helped resolve the issue between the tenant and landlord. All in all high praise to all staff at VSBC.**

Preliminary assistance feedback

_____ **I must admit that this is the first time in 16 years since we have had the business that we have reached out and found a service such as this. I am indebted for the knowledge and happy to know that this kind of service and support is available for our small business as we have battled and paid for services in the past. Thank you so much.**

Preliminary assistance feedback

Mediation

Bringing parties together to confidentially discuss their dispute with an experienced, independent mediator enables businesses to resolve the issue on their own terms and can help to preserve the commercial relationship. As mediations held by our office are subsidised by the Victorian Government, the cost to the parties is significantly less than litigation – \$195 per party or \$95 if the dispute falls under the *Owner Drivers and Forestry Contractors Act 2005* or *Commercial Passenger Vehicle Industry Act 2017*. There is no cost to parties for mediations conducted under the *COVID-19 Omnibus (Emergency Measures) Act 2020*.

This year we saw an increase in demand for interpreter services at mediation, with 54 mediations requiring these services compared to 23 in the previous year. We were pleased to see this outcome following our efforts to make our dispute resolution services more accessible for business owners of diverse backgrounds.

Wherever possible, mediations are held at locations that meet the needs of the parties. While the majority of mediations in 2019–20 took place at our offices in Melbourne's CBD, 8.4 per cent were conducted at regional locations (see Figure 4). In the last three months of the year, all mediations were conducted via teleconference or videoconference due to coronavirus, comprising 23.7 per cent of total mediations for the year.

Of the 580 matters that were concluded at mediation in 2019–20, 81.6 per cent were resolved successfully. The settlement rate at mediation varied from 78 per cent to 100 per cent across jurisdictions (see Figure 5).

In 2019–20 the overall satisfaction rating with our mediation services remained strong at 90.2 per cent, down slightly from 93.3 per cent in the previous year.

AUTOMOTIVE BODY REPAIRER IN REGIONAL VICTORIA

Commercial landlord Tan contacted the VSBC because his tenant Robin, who runs an automotive body repairer, had stopped paying rent and outgoings.

Robin had advised Tan that he would not pay any outgoings. Robin also requested a 100 per cent rent waiver due to turnover falling by 80 per cent between April and June 2020 and by 100 per cent between July and August 2020, after Robin closed his business due to restrictions in response to coronavirus (COVID-19).

Robin's lease was to expire on 31 August 2020. He didn't take up a further option and advised Tan that he didn't want to renew his lease.

A VSBC dispute resolution officer contacted Robin to explain the regulations for the Commercial Tenancy Relief Scheme. Robin learnt that Tan had to offer rent relief where at least 50 per cent was in the form of a rent waiver, not 100 per cent. The dispute resolution officer explained that under the regulations, Tan is required to pass on any reductions in outgoings by third parties and consider waiving outgoings altogether.

As a result, an agreement was reached where Tan would waive 40 per cent of the rent for April to June 2020 and 50 per cent for June to August 2020. The remainder of the rent was deferred for repaying over 24 months starting 1 September 2020.



Please note: names and some details have been omitted or changed to protect the identity of those involved. Photo posed by model.

Figure 4—Mediation venues

Legislation	Venue				
	Mediations held	Melbourne's CBD	Teleconference/ videoconference	Other metro	Regional and rural
<i>COVID-19 Omnibus (Emergency Measures) Act 2020</i>	43	0	43	0	0
<i>Retail Leases Act 2003</i>	429	314	77	14	24
<i>Small Business Commission Act 2017</i>	115	77	25	3	10
<i>Owner Drivers and Forestry Contractors Act 2005</i>	9	9	0	0	0
<i>Farm Debt Mediation Act 2011</i>	33	10	4	0	19
Total	629	410	149	17	53

Figure 5—Mediation outcomes by legislation

Legislation	Completed mediations	Successful	Unsuccessful	Success rate (%)	Adjourned
<i>COVID-19 Omnibus (Emergency Measures) Act 2020</i>	37	34	3	91.9	6
<i>Retail Leases Act 2003</i>	398	310	88	77.9	31
<i>Small Business Commission Act 2017</i>	105	91	14	86.7	10
<i>Owner Drivers and Forestry Contractors Act 2005</i>	9	9	0	100	0
<i>Farm Debt Mediation Act 2011</i>	31	29	2	93.5	2
Total	580	473	107	81.6	49

Resolving small business disputes

continued

Five-year waiver certificates

Section 21 of the *Retail Leases Act 2003* provides that a tenant can waive their right to a minimum five-year term by applying to the VSBC for a certificate and giving a copy of that certificate to their landlord.

In 2017 the VSBC introduced a new fully automated process that enables tenants to receive an explanation of section 21 of the Act and apply and automatically receive a waiver certificate online. In 2019–20 we issued 2,911 certificates, which is a 12 per cent increase on 2018–19.

Unreasonable refusal

Section 16(4) of the *Small Business Commission Act 2017* provides that the VSBC has the power to publish details in its annual report of certificates issued certifying that a party to a dispute has unreasonably refused to take part in alternative dispute resolution with the VSBC, provided that statutory procedural fairness steps have been followed.

We make every effort to engage with respondent parties, explaining the benefits of resolving disputes through alternative dispute resolution and the consequences if we find their refusal to be unreasonable.

In 2019–20 the VSBC issued three unreasonable refusal certificates, the details of which are shown in Figure 6.

Figure 6—Certificates issued to a party to a dispute unreasonably refusing to participate in alternative dispute resolution

Certificate date	Party
31 July 2019	360 Degree Project Services Pty Ltd
6 September 2019	Jump Swim Schools Leasing Pty Ltd
2 October 2019	Aoss Pty Ltd trading as Amazonaus

The top five types of *Small Business Commission Act 2017* disputes that the VSBC helped to resolve in 2019–20 relate to:

- 1 — small business supplier invoices that were not paid (36.5 per cent)
- 2 — a disagreement about contractual rights and responsibilities (17.1 per cent)
- 3 — goods or services that were not delivered (16.3 per cent)
- 4 — goods or services that were believed to be of poor quality (11.6 per cent)
- 5 — alleged misrepresentation (3.3 per cent).

Under the *Retail Leases Act 2003*, the top five issues causing the disputes we helped to resolve in 2019–20 relate to:

- 1 — a tenant not paying outgoings, expenses and rent owed under their lease (32 per cent)
- 2 — a disagreement about the value of outgoings, expenses and rent (27.2 per cent)
- 3 — the definition of a retail premises (8.3 per cent)
- 4 — repairs and maintenance (7.5 per cent)
- 5 — the security deposit (6.4 per cent).

TRANSPORT BUSINESS IN MELBOURNE'S SOUTH EAST

Local transport business owner Emir had, over time, purchased a large number of fuel cards for his drivers. He understood that certain transaction fees applied but felt they were excessive and not in line with what he had originally agreed to. Emir entered into negotiations with a representative from the fuel retailer, Marlee, to try to lower the fees but wasn't convinced that the fee structure was correct or fair. Emir requested a statement of charges from Marlee, which she did not then provide.

To further demonstrate how he had been overcharged, Emir provided Marlee with excerpts from the original agreement and information taken from the fuel retailer's website about the terms and conditions for fuel cards. Marlee didn't agree that Emir had been overcharged though offered him a small amount of compensation as a goodwill gesture.

Emir applied to the VSBC for help in resolving his small business dispute, claiming that he never agreed to the fee structure when he purchased the fuel cards. Emir made a monetary claim with one of the key grievances being that Marlee hadn't provided the fuel retailer's statement of charges as he had requested. When contacted by the VSBC, Marlee said she was willing to resume negotiations to try to resolve the dispute, which Emir agreed to only if the statement was provided. In the meantime, Marlee made a further offer to settle, which Emir promptly rejected.

When Marlee emailed Emir the statement the following week, Emir identified further instances where he was overcharged. Emir then resubmitted a revised claim with a request for mediation.

At mediation, an experienced, independent mediator guided Emir and Marlee in discussing the matter and exploring ways to resolve the dispute so they could reach an agreement they could both accept. The outcome was Marlee and Emir agreeing to a payment that Marlee would make to Emir to settle the matter.

Please note: names and some details have been omitted or changed to protect the identity of those involved. Photo posed by model.

06

Responding to the Minister's Statement of Expectations

In 2019 the Minister for Small Business issued a Statement of Expectations for the VSBC. The expectations were that the VSBC would contribute to the Victorian Government's program to reduce red tape affecting businesses by promoting greater efficiency and effectiveness in the administration and enforcement of regulation.

The statement applies to the period 1 July 2019 to 30 June 2021. We are required to report on activities undertaken to reach the performance targets and improvements set out in this statement, as detailed below.

Timeliness

Prioritise resources to implement efficiencies in the time taken to resolve disputes through reduced manual handling and duplication of records

The VSBC has undertaken a review of the dispute resolution methodology and implemented recommended efficiencies to reduce the time taken to resolve disputes.

The VSBC will provide customers with estimated timeframes for their cases

The VSBC has implemented a process where the average timeframe for resolving disputes is provided in the initial correspondence to parties.

In 2019–20 the average time taken to complete a dispute that was finalised before mediation was 9 weeks and 13 weeks for disputes resolved through mediation.

Compliance-related assistance and advice

Monitor the quality of preliminary assistance and dispute resolution services and identify opportunities for improvement (if necessary)

Client satisfaction with dispute resolution services is monitored via a survey sent by dispute resolution officers when a matter has concluded. For 2019–20 the client satisfaction rate was 95.6 per cent for disputes settled before mediation and 91 per cent for matters that were unresolved.

The pre-mediation success rate for 2019–20 was 38 per cent, an increase from 33.9 per cent in the previous year.

Develop a process to assess awareness of VSBC dispute resolution services in the small business sector and identify opportunities for improvement (if necessary)

Survey questions have been drafted to assess understanding of the VSBC services and identify opportunities to raise awareness. However, due to the coronavirus (COVID-19) pandemic, this will be progressed in 2020–21.

Risk-based strategies

Prepare a risk management plan that identifies foreseeable risks and appropriate mitigation strategies

The VSBC has documented its risk management plan and will continue to review. The plan is monitored and updated quarterly, and actions implemented, where appropriate.

Stakeholder consultation and engagement

Prepare a social media and communications strategy to raise awareness of the Government's dispute resolution service, as well as extended outreach

A social media and communications strategy has been developed to raise awareness of the VSBC's dispute resolution services, with implementation underway. Outcomes for 2019–20 include:

- 3,047 followers across the VSBC's social media sites (an increase of 108 per cent on the previous year)
- 172 per cent increase in VSBC media mentions
- development of new VSBC communications materials in response to identified needs, including resources to support the introduction of the Commercial Tenancy Relief Scheme and engage with small business owners of diverse backgrounds.

Appendix A: Compliance and accountability

Our team

The VSBC is made up of the Victorian Small Business Commissioner and other Victorian Public Sector (VPS) staff, including senior managers in the areas of corporate and engagement, advocacy and monitoring, and dispute resolution services.

VSBC staff are employed by the Department of Jobs, Precincts and Regions (the department) under Part 3 of the *Public Administration Act 2004*. Our staff take part in the department's training, performance management and HR activities and comply with the department's financial and other policies and codes of conduct.

Assessing our performance

The department's governance framework aims to encourage alignment of the strategic priorities of its portfolio. It also aims to improve coordination and collaboration in order to increase performance and effectively identify and resolve risks and issues.

The VSBC has performed very well against its set performance metrics. We have also undertaken notable efforts in response to the Minister's Statement of Expectations and have fully responded to the statement's requirements (see pages 30–31).

Occupational health and safety

We endeavour to provide a work environment that is free from risks to the safety, health and wellbeing of staff, including VPS employees, agency on hire staff, contractors and visitors.

In 2019–20 no issues arose in relation to occupational health and safety.

Environmentally sustainable practices

The VSBC is committed to sustainable practices through waste minimisation, energy efficiency, paper reduction, recycling and the integration of environmental sustainability within our governance, planning and procedures.

Systems

Corporate support services, including financial, information technology and records management support, are provided by the department.

We have a specialised database that we use for:

- dispute management and reporting
- preliminary enquiries
- survey reporting – client satisfaction with our mediation service and preliminary support.

Complaints

We have a complaints procedure, an overview of which we provide on our website. We received three complaints in 2019–20 relating to our dispute resolution service, which were investigated internally and resolved with the people who made the complaints.

Freedom of Information

In 2019–20 no Freedom of Information requests relating to the activities of the VSBC were received.

Protected disclosure procedures

The VSBC operates in accordance with the department’s protected disclosure procedures. As at 30 June 2020 we had not received any disclosures made under the *Protected Disclosure Act 2012*, nor had the Victorian Ombudsman referred any such disclosures to us for investigation.

Major contracts

The VSBC did not enter into any contracts over \$10 million in the period 1 July 2019 to 30 June 2020. We did not engage any consultants during the period but there was expenditure relating to a consultancy entered into in 2018–19 (see Figure 7).

Figure 7—Consultancies

Consultant	Purpose of consultancy	Start date	End date	Total approved project fee (excluding GST)	Expenditure 2019–20 (excluding GST)	Future expenditure (excluding GST)
KPMG	Professional services	1 July 2019	30 September 2019	\$15,422	\$15,560	\$0

Appendix B: Operations

Funding		\$
Appropriation		
	Victorian Small Business Commission	2,585,000
	Farm debt mediation	600,000
	Commercial Tenancy Relief Scheme	358,813
	Capital asset charge and depreciation	65,888
Total 2019–20 funding		3,609,701
Expenditure		
	Employee-related expenses	2,709,636
	Contractors	686,459
	IT and communications	323,027
	Other expenses	50,130
	Capital asset charge and depreciation	65,888
Total 2019–20 expenditure		3,835,141

Annual Report 2020

Victorian Small Business Commission

Level 2, 121 Exhibition Street
Melbourne Victoria 3000
GPO Box 4509
Melbourne Victoria 3001
Telephone 13 VSBC (13 8722)
enquiries@vsbc.vic.gov.au
www.vsbv.vic.gov.au

